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**CITY OF SAN JOSE AND MEF/CEO
CITY PACKAGE PROPOSAL "B"**

PERIOD OF MEMORANDUM OF AGREEMENT

July 1, 2011 – June 30, 2012 (See Attached)

WAGES

See Attached

OVERTIME CALCULATION

See Attached

SALARY STEP STRUCTURE

See Attached

HEALTHCARE COST SHARING

See Attached

HEALTHCARE CO-PAYS

See Attached

HEALTH AND DENTAL IN LIEU

See Attached

DUAL COVERAGE

See Attached

SICK LEAVE PAYOUT

See Attached

ADMINISTRATIVE COSTS OF RETIREMENT PLAN

See Attached

DISABILITY LEAVE

See Attached

**CITY OF SAN JOSE AND MEF/CEO
CITY PACKAGE PROPOSAL "B"**

HOLIDAY CLOSURE

See Attached

RELEASE TIME

See Attached

COST OF REQUESTING LIST OF ARBITRATORS

See Attached

SAFETY

See Attached

SIDE LETTERS

- Retirement Benefits for current and new employees
- Layoff
- Supplemental Retiree Benefit Reserve (SRBR)
- Subsidy for Public Transit

This proposal is submitted in an attempt to reach a settlement. In the event the proposal is not accepted, the City reserves the right to modify, amend and/or add proposals.

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PERIOD OF MEMORANDUM OF AGREEMENT

Proposed CEO Language:

ARTICLE 3 PERIOD OF MEMORANDUM OF AGREEMENT

~~3.1 This Agreement shall become effective September 21, 2008, except where otherwise provided, and shall remain in effect through September 17, 2011. No amendment or change to the provisions of this Agreement shall be valid or binding unless reduced to writing and signed by duly authorized representative(s) of the parties. Fifty (50) copies of this Agreement, as originally executed, shall be printed for the Employee Organization. The costs of such printing shall be shared equally by the parties, unless the printing of such Agreements are reproduced utilizing City facilities, in which case the City shall bear the cost of such printing. The City will provide email notification to all CEO represented employees at the time a new successor Agreement is posted on the City's intranet.~~

~~3.2 It is the mutual desire of the parties to conclude the meet and confer process as early as possible prior to the expiration of this Agreement. Therefore, it is agreed that the Employee Organization shall exert every reasonable effort to submit any proposed changes or additions to this Agreement on or before August 1, 2011. The City agrees to begin the meet and confer process as soon thereafter as is reasonably possible.~~

3.1 This Agreement shall become effective July 1, 2011, except where otherwise provided, and shall remain in effect through June 30, 2012. No amendment or change to the provisions of this Agreement shall be valid or binding unless reduced to writing and signed by duly authorized representative(s) of the parties.

It is mutually agreed that the first meeting of the parties will be held no later than fifteen (15) calendar days after the City or Association receives notice from the other, which may be any date after January 1 of the year in which the current contract terminates.

Proposed MEF Language:

ARTICLE 1 PERIOD OF MEMORANDUM OF AGREEMENT

~~2.1 This Agreement shall become effective July 1, 2008 except where otherwise provided, and shall remain in effect through June 30, 2011. No amendment or change to the provisions of this Agreement shall be valid or binding unless reduced to writing and signed by duly authorized representative(s) of the parties. Upon ratification by the Union of the Memorandum of Agreement and approval by the City Council, the City will provide the Union within thirty (30) days after~~

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~~both events have occurred, a draft copy of the Memorandum of Agreement. Three hundred (300) copies of this Agreement, as originally executed, shall be printed and distributed as soon as practical. The costs of such printing shall be shared equally by the parties, unless the printing of such Agreements are reproduced utilizing City facilities, in which case the City shall bear the cost of such printing. Additionally, the Agreement will be posted on the internet and intranet.~~

~~2.2.1 It is the mutual desire of the parties to conclude the meet and confer process as early as possible prior to the expiration of this Agreement. Therefore, it is agreed that the Union shall exert every reasonable effort to submit any proposed changes or additions to this Agreement on or before April 1, 2011. The City agrees to begin the meet and confer process as soon thereafter as is reasonably possible.~~

2.1 This Agreement shall become effective July 1, 2011, except where otherwise provided, and shall remain in effect through June 30, 2012. No amendment or change to the provisions of this Agreement shall be valid or binding unless reduced to writing and signed by duly authorized representative(s) of the parties.

It is mutually agreed that the first meeting of the parties will be held no later than fifteen (15) calendar days after the City or Association receives notice from the other, which may be any date after January 1 of the year in which the current contract terminates.

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CITY PROPOSAL – WAGES

Proposed CEO Language:

7.1 Wages

~~7.1.1 Wages 2008-2009. Effective September 21, 2008, all salary ranges for employees holding positions in classifications assigned to CEO shall be increased by approximately 3.75%. The 2008-2009 salary ranges are listed in Exhibit I.~~

~~7.1.2 Wages 2009-2010. Effective September 20, 2009, all salary ranges for employees holding positions in classifications assigned to CEO shall be increased by approximately 1.50%. The 2009-2010 salary ranges are listed in Exhibit II.~~

~~7.1.3 Wages 2010-2011. Effective September 19, 2010, all salary ranges for employees holding positions in classifications assigned to CEO shall be increased by approximately 2.0%. The 2010-2011 salary ranges are listed in Exhibit III.~~

~~7.1.4 Employees assigned to part-time classifications shall be paid an hourly rate equivalent to the hourly rate for the same full-time classification.~~

7.1.1 Effective June 26, 2011, all salary ranges for employees holding positions in classifications assigned to CEO (Union Code 100/101) shall be decreased by approximately 12.16%. This will result in the top and bottom of the range of all classifications represented by CEO being 12.16% lower. All employees will receive a 12.16% base pay reduction.

7.1.2 Employees assigned to part-time classifications shall be paid an hourly rate equivalent to the hourly rate for the same full-time classification.

Proposed MEF Language:

~~12.1.1 Wages 2008-2009. Effective June 29, 2008, all salary ranges for employees holding positions in classifications assigned to MEF (Union Codes 051/05 and 052/07) shall be increased by approximately 3.75%. The 2008-2009 salary ranges are listed in Exhibit I and Exhibit II and shall remain in effect until June 27, 2009.~~

~~12.1.1 Employees in the following classifications will receive a 5.0% special market adjustment for a total of a 8.75% increase including the 3.75% general wage increase effective June 29, 2008:~~

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~~1187 Crime and Intelligence Analyst
1188 Crime and Intelligence Analyst (PT)
1186 Senior Crime and Intelligence Analyst~~

~~12.1.2 Employees in the following classifications will receive a 2.0% special market adjustment for a total of a 5.75% increase including the 3.75% general wage increase June 29, 2008:~~

~~1547 Buyer I
1542 Buyer II
1543 Senior Buyer
3782 Survey Field Supervisor
2443 Supervising School Crossing Guard~~

~~12.1.3 Employees in the following classification will receive a .17% special market adjustment for a total of a 3.92% increase including the 3.75% general wage increase effective June 29, 2008:~~

~~1618 Contract Compliance Specialist~~

~~12.2 Wages 2009-2010. Effective June 28, 2009, all salary ranges for employees holding positions in classifications assigned to MEF (Union Codes 051/05 and 052/07) shall be increased by approximately 1.50%. The 2009-2010 salary ranges are listed in Exhibit I and Exhibit II and shall remain in effect until June 26, 2010.~~

~~12.3 Wages 2010-2011. Effective June 27, 2010, all salary ranges for employees holding positions in classifications assigned to MEF (Union Codes 051/05 and 052/07) shall be increased by approximately 2.0%. The 2010-2011 salary ranges are listed in Exhibit I and Exhibit II and shall remain in effect until June 30, 2011.~~

~~12.4 Wages for part-time employees. Employees assigned to part-time classifications shall be paid an hourly rate equivalent to the hourly rate for the same full-time classifications.~~

12.1 Effective June 26, 2011, all salary ranges for employees holding positions in classifications assigned to MEF (Union Code 050/051/052) shall be decreased by approximately 12.01%. This will result in the top and bottom of the range of all classifications represented by MEF being 12.01% lower. All employees will receive a 12.01% base pay reduction.

12.2 Wages for part-time employees. Employees assigned to part-time classifications shall be paid an hourly rate equivalent to the hourly rate for the same full-time classifications.

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CITY PROPOSAL – OVERTIME CALCULATION

Proposed Language:

Hours assigned and worked in excess of forty (40) hours per week shall be compensated by overtime pay or compensatory time at 1.5 times the hourly rate for the number of overtime hours worked. Paid time off shall not be considered time worked for the purpose of calculating eligibility for overtime.

This language is intended to replace the language in:

- *Article 7.12.1 of the MEF Memorandum of Agreement.*
- *Article 6.7 of the CEO Memorandum of Agreement.*

With this proposal, Article 7.6 of the MEF Memorandum of Agreement and Article 6.10 of the CEO Memorandum of Agreement shall be eliminated.

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CITY PROPOSAL – SALARY STEP STRUCTURE

Proposed Language:

Salary Steps

Effective June 26, 2011, the salary steps for all classifications represented by MEF/CEO will change from approximately 5% between each step to approximately 2.5%. This will result in an increase in the number of steps in the pay range.

This language shall be added as:

- *Article 12.3 of the MEF Memorandum of Agreement and other Articles shall be renumbered accordingly*
- *Article 7.1.3 of the CEO Memorandum of Agreement*

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CITY PROPOSAL – HEALTHCARE

Proposed MEF Language:

13.1 Health Insurance. Eligible employees may elect health insurance coverage under one of the available plans for employee only or employee and dependents.

13.1.1 ~~The City shall pay ninety percent (90%) of the full premium cost of the lowest priced plan for employee or employee and dependent coverage, and the employee will pay ten percent (10%) of the premium for the lowest priced plan up to a maximum of one hundred and fifty dollars (\$150) per month. If the employee's ten percent (10%) contribution for the lowest priced plan exceeds one hundred and fifty dollars (\$150) per month the City shall pay the difference. If an employee selects a plan other than the lowest priced plan, any additional amount required for the premium of any other plan beyond the cost of the lowest priced plan shall be paid for by the employee.~~ Effective pay date July 1, 2011, the City pays eighty-five percent (85%) of the cost of the lowest priced plan for the employee or the employees and dependent coverage and the employee pays fifteen (15%) of the premium for the lowest priced plan. If the employee selects a plan other than the lowest priced plan, the employee pays the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan.

13.1.2 ~~Effective at the beginning of pay period one (1) of payroll calendar year 2009, the City shall pay ninety percent (90%) of the full premium cost of the lowest priced plan for employee or for employee and dependent coverage, and the employee will pay ten percent (10%) of the premium for the lowest priced plan for the employee or for employee and dependent coverage. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan for employee or for employee and dependent coverage.~~

13.1.32 ~~Effective January 1, 2009, co-pays for all available HMO plans shall be as follows:~~ Effective pay date July 1, 2011, a \$25 Co-pay plan shall be implemented for all HMO plans, including the following changes:

- a. Office Visit Co-pay shall be increased to ~~\$10~~\$25
- b. Prescription Co-pay shall be increased to ~~\$5~~\$10 for generic and ~~\$40~~\$25 for brand name. ~~(The Blue Shield HMO will continue to include \$15 non-formulary drug co-pay.)~~
- c. Emergency Room Co-pay shall be increased to ~~\$50~~\$100
- d. Inpatient/Outpatient procedure Co-pay shall be increased to \$100

13.3 Payment-in-Lieu of Health and Dental Insurance. The purpose of the payment-in-lieu of health and/or dental insurance program is to allow employees who have double health and/or dental insurance coverage to drop the City's insurance and receive a payment-in-lieu.

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13.3.1 Effective pay date July 1, 2011, employees who qualify for and participate in the payment in-lieu of health and/or dental insurance program will receive the following per pay period:

	<u>Health in-lieu</u>	<u>Dental in-lieu</u>
<u>If eligible for family coverage</u>	<u>\$221.84</u>	<u>\$19.95</u>
<u>If NOT eligible for family coverage</u>	<u>\$89.09</u>	<u>\$19.95</u>

A City employee who receives healthcare coverage as a dependent of another City employee or retiree shall be deemed not eligible for family coverage.

An employee may not be simultaneously covered by City-provided medical benefits as a City employee, and as a dependent of another City employee or retiree.

~~13.3.1 Employees who qualify for and participate in the payment-in-lieu of health and/or dental insurance program will receive fifty percent (50%) of the City's contribution toward their health and/or dental insurance at the lowest cost single or family plan if the employee is eligible for family coverage. The City will retain the remaining fifty percent (50%) of that contribution.~~

13.3.2 The payment-in-lieu of health and/or dental insurance program is available to full-time employees who are not on a reduced workweek or unpaid leave and have alternate group health and/or dental coverage. To qualify, an employee must provide proof of alternate group coverage to Human Resources. Alternate coverage must be acceptable by the City.

13.3.3 Enrollment in the payment-in-lieu of health and/or dental insurance program can only be done during the first thirty (30) days of employment, during the annual open enrollment period or within thirty (30) days of a qualifying event as defined in the Human Resources Benefits Handbook, occurring anytime during the year. Employees who miss the thirty (30)-day time limit after a qualifying event must wait until the next open enrollment period to enroll in the payment-in-lieu of insurance program. Enrollment in the payment-in-lieu of insurance program may be canceled by the employee only during the annual open enrollment period unless the employee loses alternate group coverage. Enrollment or cancellation during the open enrollment period will become effective the first pay period of the following calendar year.

13.3.4 Payments for the in-lieu insurance program will be discontinued if an employee becomes ineligible for the program. An employee's ineligible status would include but not be limited to the following situations, employment status changes from full to part-time, employee is on an unpaid leave of absence, employee is on a reduced work week, or

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employee loses or does not have alternate insurance coverage. An employee whose in-lieu payments are discontinued may enroll, if eligible, in a health and/or dental plan during the next annual open enrollment period.

13.3.5 If an employee loses alternate coverage, the employee may enroll in a City health and/or dental plan outside of the open enrollment period. To be eligible the employee must provide verification that alternate coverage has been lost.

13.3.5.1 Health Insurance. To enroll in a City health insurance plan following loss of alternate coverage, the employee must pay all unpaid premiums (City and employee contributions) and refund any excess in-lieu-payments required to make the coverage effective on the date when alternate coverage ceased. Re-enrollment in the plan shall be in accordance with the carriers' enrollment procedures.

13.3.5.2 Dental Insurance. Enrollment in a City dental insurance plan following loss of alternate coverage will become effective the first of the month following payment of two dental premiums through the City's payroll process. Re-enrollment in the dental insurance plan shall not be retroactive.

Proposed CEO Language:

7.6 Health Insurance

The City will provide health coverage for eligible full-time employees and their dependants in accordance with one of the available plans.

7.6.1 ~~The City will pay ninety percent (90%) of the full premium cost of the lowest priced plan for employee or for employee and dependent coverage. The employee will pay ten percent (10%) of the premium for the lowest priced plan up to a maximum of one hundred and fifty dollars (\$150) per month. If the employee contributed ten percent (10%) of the lowest priced plan exceeds one hundred and fifty dollars (\$150) per month, the City will pay the difference. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan. Effective pay date July 1, 2011, the City pays eighty-five percent (85%) of the cost of the lowest priced plan for the employee or the employees and dependent coverage and the employee pays fifteen (15%) of the premium for the lowest priced plan. If the employee selects a plan other than the lowest priced plan, the employee pays the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan.~~

7.6.2 ~~Effective the beginning of pay period one (1) of payroll calendar year 2009, the City will pay ninety percent (90%) of the full premium cost of the lowest priced plan for~~

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~~employee or for employee and dependent coverage, and the employee will pay ten percent (10%) of the premium for the lowest priced plan for the employee or for employee and dependent coverage. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan for employee or for employee and dependent coverage.~~

7.6.37.6.2 ~~Effective January 1, 2009, co-pays for all available HMO plans shall be as follows: Effective pay date July 1, 2011, a \$25 Co-pay plan shall implemented for all HMO plans, including the following changes:~~

- a. ~~Office visit Co-pay shall be increased to \$40~~\$25
- b. ~~Prescription Co-pay shall be increased to \$5~~\$10 for generic and ~~\$40~~\$25 for brand name. ~~(The Blue Shield HMO will continue to include \$15 non-formulary drug co-pay.)~~
- c. ~~Emergency Room Co-pay shall be increased to \$50~~\$100
- d. ~~Inpatient/Outpatient procedure Co-pay shall be increased to \$100~~

7.9 Payment-In-Lieu of Health and/or Dental Insurance Program

7.9.1 The purpose of the payment-in-lieu of health and/or dental insurance program is to allow employees who have double health and/or dental insurance coverage to drop the City's insurance and receive a payment-in-lieu.

~~7.9.2 Employees who qualify for and participate in the payment-in-lieu of health and/or dental insurance program will receive fifty percent (50%) of the City's contribution toward his/her health and/or dental insurance at the lowest cost single or family plan if the employee is eligible for family coverage. The City will retain the remaining fifty percent (50%) of that contribution.~~

7.9.2 ~~Effective pay date July 1, 2011, employees who qualify for and participate in the payment in-lieu of health and/or dental insurance program will receive the following per pay period:~~

	<u>Health in-lieu</u>	<u>Dental in-lieu</u>
<u>If eligible for family coverage</u>	<u>\$221.84</u>	<u>\$19.95</u>
<u>If NOT eligible for family coverage</u>	<u>\$89.09</u>	<u>\$19.95</u>

A City employee who receives healthcare coverage as a dependent of another City employee or retiree shall be deemed not eligible for family coverage.

An employee may not be simultaneously covered by City-provided medical benefits as a City employee, and as a dependent of another City employee or retiree.

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- 7.9.3 The payment-in-lieu of health and/or dental insurance program is available to full-time employees who are not on a reduced workweek or unpaid leave and have alternate group health and/or dental coverage. To qualify, an employee must provide proof of alternate group coverage to Human Resources. Alternate coverage must be acceptable by the City.
- 7.9.4 Enrollment in the payment-in-lieu of health and/or dental insurance program can only be done during the first thirty (30) days of employment, during the annual open enrollment period, or within thirty (30) days of a qualifying event as defined in the Human Resources Benefits Handbook, occurring anytime during the year. Employees who miss the thirty (30) day time limit after a qualifying event must wait until the next open enrollment period to enroll in payment-in-lieu of insurance programs. Enrollment in the payment-in-lieu of insurance program may be canceled by the employee only during the annual open enrollment period unless the employee loses alternate group coverage. Enrollment or cancellation during the open enrollment period will become effective the first pay period of the following calendar year.
- 7.9.5 Payments for the in-lieu insurance program will be discontinued if an employee becomes ineligible for the program. An employee's ineligible status would include but not be limited to the following situations: employment status changes from full to part time, employee is on an unpaid leave of absence, employee is on a reduced work week, or employee loses or does not have alternate insurance coverage. An employee whose in-lieu payments are discontinued may enroll, if eligible, in a health and/or dental plan during the next annual open enrollment period.
- 7.9.6 If an employee loses alternate coverage, the employee may enroll in a City health and/or dental plan outside of the open enrollment period. To be eligible the employee must provide verification that alternate coverage has been lost.

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CITY PROPOSAL – SICK LEAVE PAYOUT

Proposed Language:

Effective July 1, 2011, no employee shall be eligible for a sick leave payout.

This language is intended to replace the language in:

- *Article 10.3.6 of the MEF Memorandum of Agreement.*
- *Article 18.2 of the CEO Memorandum of Agreement.*

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CITY PROPOSAL – ADMINISTRATIVE COST OF RETIREMENT PLAN

Proposed MEF Language:

14.1.1 Administrative costs of the Federated Retirement System, including staff salaries and indirect costs, are to be paid from the retirement fund. Costs to the fund for salaries and indirect costs shall not exceed 0.07% of assets in the fund per year.

CITY PROPOSAL – DISABILITY LEAVE

Proposed CEO Language:

ARTICLE 19 DISABILITY LEAVE

19.1 Disability Leave Supplement

Disability Leave Supplement (DLS) is the benefit provided pursuant to this Article, which, when added to Worker's Compensation Temporary Disability (WCTD) results in providing employees 85% of their regular base salary.

19.2 Eligibility for Disability Leave Supplement

A full-time employee who is required to be absent from work due to a job-related injury or industrial illness and who receives WCTD payments pursuant to Division 1 or Division 4 of the California Labor Code is eligible for DLS, excluding ineligible causes listed in section 19.4. In the event an employee is not eligible for WCTD payments because of the statutory waiting period, DLS shall not be paid for such a waiting period. The employee may use sick leave to cover the waiting period.

19.2.1 After the initial three (3)-day waiting period has been met, and the employee otherwise qualifies for DLS, the employee may utilize DLS for absences required for medical visits related to the injury after his/her return to work if he/she is unable to schedule such visits on non-work hours. DLS for such intermittent absences is subject to authorization by the Worker's Compensation Section. In no event may DLS exceed the limit specified in 19.6.

19.3 Eligibility for Disability Leave Supplement Linked to Temporary Disability

If the Worker's Compensation Appeals Board of the State of California or any judicial court should determine that the employee is not entitled to Temporary Disability (WCTD) compensation, the employee shall not be entitled to Disability Leave Supplement (DLS) benefits. Under such circumstances, any DLS moneys paid to the employee by the City must be returned to the City within one year.

19.4 Ineligible Causes for Disability Leave

An employee shall not be eligible for disability leave, and shall not receive DLS if the injury or illness that causes the absence results from:

- 1) an act of gross negligence of such employee
- 2) any work voluntarily undertaken by employee from which he has been prohibited from engaging in as determined by a City physician, prior to the date of injury.

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19.5 Ineligibility if Offer and Decline of Modified Duty

DLS shall not be provided if the City offers the employee employment at identical or similar salary, within the employee's medical limitations, and the employee refuses or fails to accept duty for which he or she is physically qualified.

19.6 Maximum Term of Disability Leave Supplement

The employee will receive DLS benefits equal to the amount of money which, when added to the WCTD equals 85% of what the employee would have earned at the position from which he or she is disabled for one of the following time periods, whichever is shortest:

- 1) the time the employee is medically required to be absent due to a work-related injury or illness, after the required three-day waiting period.
- 2) the period of time WCTD is payable to the employee under the Workers' Compensation provisions of Division 1 or Division 4 of the Labor Code of the State of California.
- 3) Effective June 26, 2011, an employee will be eligible to receive DLS for a maximum of three (3) months (or 520 hours if not continually absent) for any current or future work-related injury or illness. Any employee who has exceeded three (3) months (or 520 hours if not continually absent) as of June 26, will no longer be eligible to receive DLS. Nine (9) calendar months (274 days or 1,560 hours if not continually absent) following the date of injury.

19.6.1 Time Limit for DLS Eligibility

Effective June 26, 2011, after 520 After 1,560 hours of DLS, the employee is entitled to no additional compensation for the injury or illness. No employee shall be eligible for DLS five (5) years after the date of the onset of the injury or illness for which he or she is claiming DLS.

19.7 Disability Leave Supplement is in Lieu of Regular Compensation

Employees who receive WCTD and DLS compensation do not receive their regular salary. DLS as described in this Article is in lieu of regular compensation.

19.8 Requirement of Evidence Proving Temporary Disability

The Director of Human Resources or designee is responsible for determining eligibility for DLS. In making this determination, the Director or designee may require the employee to provide proof of injury or illness, proof that the injury or illness will last, and proof of other relevant matters as determined by the Director or designee. The Director or designee may require the employee to submit to a medical examination by a physician selected by the City.

19.9 Termination of Disability Leave

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An employee who is unable to return to full time regular duty following the expiration of any and all leave provided in this Article and the integration of Sick Leave as provided in Article 18.1.2.3, and of accrued vacation, and compensatory time off, with Workers' Compensation may be separated from City service. In making this determination, the City shall consider the employee's anticipated date of return to work and the operational impact of the extended absence.

19.10 Integration. After the maximum time limit specified in Article 19.6, the integration of an employee's available leave will occur in the following order: (1) accrued Vacation hours, (2) earned Compensatory Time once vacation has been exhausted, and (3) accrued Sick Leave once Vacation and Compensatory Time have both been exhausted.

- In no event shall an employee receive an amount, including any Workers' Compensation Temporary Disability payments, in excess of the employee's regular base salary.

Proposed MEF Language:

10.4 Disability Leave

10.4.1 Disability Leave. Disability Leave Supplement (DLS) is the benefit provided pursuant to this Article, which, when added to Worker's Compensation Temporary Disability (WCTD) results in providing employees eighty-five percent (85%) of their regular base salary.

10.4.2 Eligibility for Disability Leave Supplement. A full-time employee required to be absent from work due to a job-related injury or industrial illness who receives WCTD payments pursuant to Division I or Division 4 of the California Labor Code is eligible for DLS, excluding ineligible causes listed in Section 10.4.4. In the event an employee is not eligible for WCTD payments because of the statutory waiting period, DLS shall not be paid for such a waiting period. The employee may use sick leave to cover the waiting period.

10.4.2.1 After the initial three (3)-day waiting period has been met, and the employee otherwise qualifies for DLS, the employee may utilize DLS for absences required for medical visits related to the injury after his/her return to work if he/she is unable to schedule such visits on non-work hours. DLS for such intermittent absences is subject to authorization by the Worker's Compensation Section. In no event may DLS exceed the limit specified in Section 10.4.6.

10.4.3 Eligibility for Disability Leave Supplement Linked to Temporary Disability. If the Worker's Compensation Appeals Board of the State of California or any judicial court should determine that the employee is not entitled to Temporary Disability (WCTD) compensation, the employee shall not be entitled to Disability Leave Supplement (DLS) benefits. Under such circumstances, any

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DLS moneys paid to the employee by the City must be returned to the City within one (1) year.

- 10.4.4 Ineligible Causes for Disability Leave. An employee shall not be eligible for disability leave, and shall not receive DLS if the injury or illness that causes the absence results from an act of gross negligence of such employee; and/or any work voluntarily undertaken by employee from which he has been prohibited from engaging in as determined by a City physician, prior to the date of injury.
- 10.4.5 Ineligibility if Offer and Decline of Modified Duty. DLS shall not be provided if the City offers the employee employment at identical or similar salary, within the employee's medical limitations, and the employee refuses or fails to accept duty for which the employee is physically qualified.
- 10.4.6 Maximum Term of Disability Leave Supplement. The employee will receive DLS benefits equal to the amount of money which, when added to the WCTD equals eighty-five percent (85%) of what the employee would have earned at the position from which the employee is disabled for one of the following time periods, whichever is shortest:
1. The time the employee is medically required to be absent due to a work-related injury or illness, after the required three (3)-day waiting period.
 2. The period of time WCTD is payable to the employee under the Workers' Compensation provisions of Division 1 or Division 4 of the Labor Code of the State of California.
 3. Effective June 26, 2011, an employee will be eligible to receive DLS for a maximum of three (3) months (or 520 hours if not continually absent) for any current or future work-related injury or illness. Any employee who has exceeded three (3) months (or 520 hours if not continually absent) as of June 26, will no longer be eligible to receive DLS. ~~Nine (9) calendar months (274 days or 1,560 hours if not continually absent) following the date of injury.~~
- 10.4.6.1 Time Limit for DLS Eligibility. Effective June 26, 2011, after 520 ~~After 1,560 hours of DLS,~~ the employee is entitled to no additional compensation for the injury or illness. No employee shall be eligible for DLS five (5) years after the date of the onset of the injury or illness for which the employee is claiming DLS.
- 10.4.7 Disability Leave Supplement is in Lieu of Regular Compensation. Employees who receive WCTD and DLS compensation do not receive their regular salary. DLS as described in this Article is in lieu of regular compensation.
- 10.4.8 Requirement of Evidence Proving Temporary Disability. The Director of Human Resources, or designee, is responsible for determining eligibility for DLS. In making this determination, the Director may require the employee to provide proof of injury or illness, proof that the injury or illness will last, and proof of other relevant matters as determined by the Director, or designee. The Director, or designee, may require the employee to submit to a medical examination by a physician selected by the City.

2011 CITY OF SAN JOSE – MEF/CEO NEGOTIATIONS

10.4.9 Termination of Disability Leave. An employee who is unable to return to full time regular duty following the expiration of any and all leave provided in this Article and the integration of Sick Leave as provided in Section 10.3.3.3, and of accrued vacation, and compensatory time off, with Workers' Compensation may be considered to have separated from City service.

10.4.9.1 An employee who exhausts all Disability Leave shall be notified that they are subject to the above provision upon expiration of all remaining paid leave.

10.4.10 Integration. After the maximum time limit specified in Article 19.6, the integration of an employee's available leave will occur in the following order: (1) accrued Vacation hours, (2) earned Compensatory Time once vacation has been exhausted, and (3) accrued Sick Leave once Vacation and Compensatory Time have both been exhausted.

- In no event shall an employee receive an amount, including any Workers' Compensation Temporary Disability payments, in excess of the employee's regular base salary.

2011 CITY OF SAN JOSE – MEF/CEO NEGOTIATIONS

CITY PROPOSAL – HOLIDAY CLOSURE

Proposed Language:

Holiday Closure. The City Manager or designee may determine that all non-essential City operations close for a Holiday Closure during the Christmas and New Year's holiday. In such event, employees shall be encouraged to take time off; however, it shall not be a requirement.

If a department participates in the Holiday Closure and the employee elects to participate in the Holiday Closure using the Holiday Closure payroll code, the employee will be required to pay retirement contributions on any Holiday Closure hours and will not accrue vacation or sick leave while taking Holiday Closure time off.

Employees will continue to accrue seniority while using the Holiday Closure payroll code as though they were at work.

This language is intended to replace the language in:

- *Articles 10.1.12 of the MEF Memorandum of Agreement.*
- *Articles 16.6 of the CEO Memorandum of Agreement.*



2011 CITY OF SAN JOSE – MEF/CEO NEGOTIATIONS

CITY PROPOSAL – RELEASE TIME

Proposed Language:

City Paid Union Release Time (URT). The designated bargaining unit representative(s) shall use the City Paid Union Release Time (URT) payroll code for any paid time off eligible for release time from regular City duties to attend authorized meetings. The designated bargaining unit representative(s) shall not receive compensation for meetings that may occur outside their regular work hours, inclusive of any unpaid lunch period. The use of City Paid Union Release Time (URT) will have no impact on seniority, sick leave and vacation accruals.

This language shall be added as:

- *Article 6.2.8 of the MEF Memorandum of Agreement*
- *Article 12.7.3 of the CEO Memorandum of Agreement*

CITY PROPOSAL – ARBITRATION COST OF REQUESTING LIST OF ARBITRATORS

Proposed CEO Language:

12.6.3 ~~The parties may mutually agree upon the selection of the arbitrator or shall jointly request the State of California Conciliation Service to provide a list of seven (7) persons qualified to act as arbitrators.~~

The parties may mutually agree upon the selection of the arbitrator or the Union shall request from the State of California Conciliation Service, to provide a list of seven (7) persons qualified to act as arbitrators. The Union shall notify the Municipal Employee Relations Officer that such request is being made.

Any costs associated with obtaining a list from the State of California Conciliation Service shall be paid by the City and Union equally. The City will process the request after receiving the Union's share of the cost for obtaining the list.

Proposed MEF Language:

20.6.3 ~~The parties may mutually agree upon the selection of the arbitrator or shall jointly request the State of California Conciliation Service to provide a list of seven persons qualified to act as arbitrators.~~

The parties may mutually agree upon the selection of the arbitrator or the Union shall request from the State of California Conciliation Service, to provide a list of seven (7) persons qualified to act as arbitrators. The Union shall notify the Municipal Employee Relations Officer that such request is being made.

Any costs associated with obtaining a list from the State of California Conciliation Service shall be paid by the City and Union equally. The City will process the request after receiving the Union's share of the cost for obtaining the list.

2011 CITY OF SAN JOSE – MEF/CEO NEGOTIATIONS

CITY PROPOSAL – SAFETY

Proposed MEF Language:

ARTICLE 15 SAFETY

- 15.1 The City shall provide a safe and healthy working environment in accordance with applicable State and Federal laws and regulations. The Union agrees that where safety devices or protective equipment is required or furnished, its use shall be mandatory.
- 15.2 An employee who believes their work assignment is unsafe or believes a safety violation exists and for that reason refuses to perform such assignment, will first report such unsafe conditions to their immediate supervisor and try and resolve it at that level. The employee may at any time request that a union representative be present for any part of the process. ~~shall be assigned other duties, if other duties are available, and no other employee shall be assigned the work assignment in dispute until after a determination has been made by the City's Safety Officer. If no other duties are available, the employee shall be placed on a leave of absence without pay, pending the above determination. Prior to being placed on such leave, however, the employee may request the presence of the appropriate Union representative.~~
- 15.3 If the employee is not satisfied with the response of the immediate supervisor, the employee may request that the City make a determination as to the safeness of the work assignment in accordance with Cal/OSHA regulations, including but not limited to Labor Code Section 6311. If the City is asked to make a determination, an employee will be assigned other duties if other duties are available while an investigation is underway. If no other duties are available, the employee shall be placed on a leave of absence without pay, pending the above determination. No other employee shall be assigned the work assignment in dispute until after a determination is made by the City's designated safety official. The employee's immediate supervisor shall immediately request the City's Safety Officer to make a determination as to the safeness of the work assignment in question. If the assignment is determined to be unsafe, the employee shall be reimbursed for any time lost due to the refusal to perform. If the employee disagrees with the determination of the City's Safety Officer and continues to refuse to perform the assignment, the employee shall be assigned other duties, if such other duties are available, and a prompt request for a determination by the Department of Industrial Safety of the State of California shall be made. Pending such determination, the assignment shall not be given to another employee. If no other duties are available, the employee shall be placed on a leave of absence without pay, pending the determination of the Department of Industrial Safety. If the assignment is determined to be unsafe, the employee shall be reimbursed for any time lost due to refusal to perform. The determination by the Department of Industrial Safety of the safeness or unsafeness of the work assignment shall not be subject to the grievance procedure.
- 15.4 No provisions of this Article shall be subject to the grievance procedures of this Agreement.
- 15.4 ~~Upon request of either the employee or the representative of the State of California, Division of Occupational Safety and Health, the appropriate Union representative shall be permitted to accompany the City Safety Officer, or the representative of the~~

City of San Jose

April 11, 2011

Page 1 of 3

2011 CITY OF SAN JOSE – MEF/CEO NEGOTIATIONS

Division _____ of Industrial Safety, or both, during the inspections of the questioned work assignment. Neither the employee nor the appropriate Union representative shall suffer any loss of _____ compensation for time involved in the inspections of the questioned work assignment during their respective regularly scheduled working hours. In no event shall overtime or premium pay be paid for any time spent in such inspections.

- 15.5 The city-wide Safety Committee shall provide one seat for an MEF designated _____ representative. The MEF representative shall attend regular meetings for the purposes _____ of informing the committee of safety issues and concerns and assisting in the _____ development of educational training sessions.

Proposed CEO Language:

ARTICLE 11 SAFETY

- 11.1 The City shall provide a safe and healthy working environment in accordance with applicable State and Federal laws and regulations. The Employee Organization agrees that where safety devices or protective equipment is required or furnished, its use shall be mandatory.
- 11.2 An employee who believes their work assignment is unsafe or believes a safety violation exists and for that reason refuses to perform such assignment, will first report such unsafe conditions to their immediate supervisor and try and resolve it at that level. The employee may at any time request that a union representative be present for any part of the process. ~~shall be assigned other duties, if other duties are available, and no other employee shall be assigned the work assignment in dispute until after a determination has been made by the City's Safety Officer. If no other duties are available, the employee shall be placed on a leave of absence without pay, pending the above determination. Prior to being placed on such leave, however, the employee may request the presence of the appropriate Union representative.~~
- 11.3 If the employee is not satisfied with the response of the immediate supervisor, the employee may request that the City make a determination as to the safeness of the work assignment in accordance with Cal/OSHA regulations, including but not limited to Labor Code Section 6311. If the City is asked to make a determination, an employee will be assigned other duties if other duties are available while an investigation is underway. If no other duties are available, the employee shall be placed on a leave of absence without pay, pending the above determination. No other employee shall be assigned the work assignment in dispute until after a determination is made by the City's designated safety official. ~~The employee's immediate supervisor shall immediately request the City's Safety Officer to make a determination as to the safety of the work assignment in question. If the assignment is determined to be unsafe, the employee shall be reimbursed for any time lost due to the refusal to perform. If the employee disagrees with the determination of the City's Safety Officer and continues to refuse to perform the assignment, he/she shall be assigned other duties, if such other duties are available, and a prompt request for a determination by the Department of Industrial Safety of the State of California shall be made. Pending such determination, the assignment shall not be given to another employee. If no other duties are available, the employee shall be~~

2011 CITY OF SAN JOSE – MEF/CEO NEGOTIATIONS

~~placed on a leave of absence without pay, pending the determination of the Department of Industrial Safety. If the assignment is determined to be unsafe, the employee shall be reimbursed for any time lost due to refusal to perform. The determination by the Department of Industrial Safety of the safety or lack of safety of the work assignment shall not be subject to the grievance procedure.~~

11.4 No provisions of this Article shall be subject to the grievance procedures of this Agreement.

~~11.4 Upon request of either the employee or the representative of the Department of Industrial Safety, the appropriate Employee Organization representative shall be permitted to accompany the City Safety Officer, or the representative of the Division of Industrial Safety, or both, during the inspections of the questioned work assignment. Neither the employee or the appropriate Employee Organization representative shall suffer any loss of compensation for time involved in the inspections of the questioned work assignment during their respective regularly scheduled working hours. In no event shall overtime or premium pay be paid for any time spent in such inspections.~~

~~11.5 As used herein, the term "City Safety Officer" shall include any person designated to act as such.~~



Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

Confidential Employees' Organization, Local 101, AFSCME, AFL-CIO (CEO)

RETIREMENT REFORM

The City and Confidential Employees' Organization, Local 101, AFSCME, AFL-CIO (CEO) agree to continue meeting and conferring on pension and retiree healthcare benefits for current and future employees, including but not limited to healthcare benefits. The negotiations may include modification of healthcare (medical and dental) plans available to current employees, including but not limited to plan design.

Either the City or CEO may provide notice to the other of its request to continue to meet and confer. Upon such notice, the parties shall continue these negotiations within ten (10) calendar days after the City or CEO receives notice from the other. The City and CEO shall continue to meet and confer in good faith in an effort to reach a mutual agreement.

If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures. In such event, neither party waives any legal rights.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and CEO.

FOR THE CITY:

FOR CEO:

Gina Donnelly
Office of Employee Relations

Date

LaVerne Washington
Confidential Employees' Organization,
Local 101, AFSCME, AFL-CIO (CEO)

Date

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

Municipal Employees' Federation, AFSCME, Local No. 101, AFL-CIO (MEF)

RETIREMENT REFORM

The City and Municipal Employees' Federation, AFSCME, Local No. 101, AFL-CIO (MEF) agree to continue meeting and conferring on pension and retiree healthcare benefits for current and future employees, including but not limited to healthcare benefits. The negotiations may include modification of healthcare (medical and dental) plans available to current employees, including but not limited to plan design.

Either the City or MEF may provide notice to the other of its request to continue to meet and confer. Upon such notice, the parties shall continue these negotiations within ten (10) calendar days after the City or MEF receives notice from the other. The City and MEF shall continue to meet and confer in good faith in an effort to reach a mutual agreement.

If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures. In such event, neither party waives any legal rights.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and MEF.

FOR THE CITY:

FOR MEF:

Gina Donnelly
Office of Employee Relations

Date

Yolanda Cruz
Municipal Employees' Federation,
AFSCME, Local No. 101, AFL-CIO (MEF)

Date

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

Confidential Employees' Organization, Local 101, AFSCME, AFL-CIO (CEO)

LAYOFF

The City and the Confidential Employees' Organization, Local 101, AFSCME, AFL-CIO (CEO) may provide notice to the other of its request to meet and confer on modifications to the City's layoff process and procedure, including the provisions of the Layoff article in the Memorandum of Agreement. Upon such notice, the parties shall meet within ten (10) calendar days after the City or CEO receives notice from the other. The City and CEO shall meet and confer in good faith in an effort to reach a mutual agreement.

If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor Memorandum of Agreement.

FOR THE CITY:

FOR CEO:

Gina Donnelly
Office of Employee Relations

Date

LaVerne Washington
Confidential Employees' Organization,
Local 101, AFSCME, AFL-CIO (CEO)

Date

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

Municipal Employees' Federation, AFSCME, Local No. 101, AFL-CIO (MEF)

LAYOFF

The City and the Municipal Employees' Federation, AFSCME, Local No. 101, AFL-CIO (MEF) may provide notice to the other of its request to meet and confer on modifications to the City's layoff process and procedure, including the provisions of the Layoff article in the Memorandum of Agreement. Upon such notice, the parties shall meet within ten (10) calendar days after the City or MEF receives notice from the other. The City and MEF shall meet and confer in good faith in an effort to reach a mutual agreement.

If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor Memorandum of Agreement.

FOR THE CITY:

FOR MEF:

Gina Donnelly Date
Office of Employee Relations

Yolanda Cruz Date
Municipal Employees' Federation,
AFSCME, Local No. 101, AFL-CIO (MEF)

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

Confidential Employees' Organization, Local 101, AFSCME, AFL-CIO (CEO)

SUPPLEMENTAL RETIREE BENEFIT RESERVE (SRBR)

The City and the Confidential Employees' Organization, Local 101, AFSCME, AFL-CIO (CEO) agree to discuss the Supplemental Retiree Benefit Reserve (SRBR) program in the Federated City Employees' Retirement System.

Either the City or CEO may provide notice to the other of its request to discuss the SRBR program. Upon such notice, the parties shall continue these discussions within ten (10) calendar days after the City or CEO receives notice from the other.

To the extent that any change to the SRBR program is a mandatory subject of bargaining, the City and CEO shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties are at impasse and no agreement is reached on those issues that are a mandatory subject of bargaining, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor Memorandum of Agreement.

FOR THE CITY:

FOR CEO:

Gina Donnelly Date
Office of Employee Relations

LaVerne Washington Date
Confidential Employees' Organization,
Local 101, AFSCME, AFL-CIO (CEO)



Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

Municipal Employees' Federation, AFSCME, Local No. 101, AFL-CIO (MEF)

SUPPLEMENTAL RETIREE BENEFIT RESERVE (SRBR)

The City and the Municipal Employees' Federation, AFSCME, Local No. 101, AFL-CIO (MEF) agree to discuss the Supplemental Retiree Benefit Reserve (SRBR) program in the Federated City Employees' Retirement System.

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This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor Memorandum of Agreement.

FOR THE CITY:

FOR MEF:

Gina Donnelly Date
Office of Employee Relations

Yolanda Cruz Date
Municipal Employees' Federation,
AFSCME, Local No. 101, AFL-CIO (MEF)

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

Confidential Employees' Organization, Local 101, AFSCME, AFL-CIO (CEO)

SUBSIDY FOR PUBLIC TRANSIT

The City and the Confidential Employees' Organization, Local 101, AFSCME, AFL-CIO (CEO) agree to discuss the programs available to employees that provide subsidy for public transit. Discussions shall include, but not be limited to, modifications to the programs, voucher amounts and elimination of the programs.

Either the City or CEO may provide notice to the other of its request to discuss the programs available to employees that provide subsidies for public transit. Upon such notice, the parties shall continue these discussions within ten (10) calendar days after the City or CEO receives notice from the other.

To the extent that any change to the programs may be a mandatory subject of bargaining, the City and CEO shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and CEO.

FOR THE CITY:

FOR CEO:

Gina Donnelly
Office of Employee Relations

Date

LaVerne Washington
Confidential Employees' Organization,
Local 101, AFSCME, AFL-CIO (CEO)

Date

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

Municipal Employees' Federation, AFSCME, Local No. 101, AFL-CIO (MEF)

SUBSIDY FOR PUBLIC TRANSIT

The City and the Municipal Employees' Federation, AFSCME, Local No. 101, AFL-CIO (MEF) agree to discuss the programs available to employees that provide subsidy for public transit. Discussions shall include, but not be limited to, modifications to the programs, voucher amounts and elimination of the programs.

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To the extent that any change to the programs may be a mandatory subject of bargaining, the City and MEF shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and MEF.

FOR THE CITY:

FOR MEF:

Gina Donnelly
Office of Employee Relations

Date

Yolanda Cruz
Municipal Employees' Federation,
AFSCME, Local No. 101, AFL-CIO (MEF)

Date

